

BEFORE THE
ILLINOIS COMMERCE COMMISSION

THE DEPARTMENT OF TRANSPORTATION)
OF THE STATE OF ILLINOIS, FOR)
AND ON BEHALF OF THE PEOPLE OF)
THE STATE OF ILLINOIS,)
PETITIONER,)
V.)

No. T12-0134

UNION PACIFIC RAILROAD COMPANY,
AS SUCCESSOR TO CHICAGO &
NORTHWESTERN TRANSPORTATION CO.,
AS SUCCESSOR TO CHICAGO,
MADISON & NORTHERN RAILROAD
COMPANY; UNION PACIFIC RAILROAD
COMPANY, WHICH ACQUIRED TITLE AS
THE CHICAGO & NORTH WESTERN
RAILWAY COMPANY; AND UNKNOWN
OWNERS,
RESPONDENTS.

PETITION FOR APPROVAL OF THE
TAKING OR DAMAGING OF CERTAIN
PROPERTY OWNED BY A COMMON
TRANSPORTATION CARRIER IN KANE
COUNTY, ILLINOIS BY EXERCISING
THE RIGHT OF EMINENT DOMAIN
PARCEL NO. 1ST0244PE & TE; PARCEL
NO. 1ST0245PE & TE; JOB NO.
R91-083-01

Chicago, Illinois
November 1st, 2012

Met, pursuant to adjournment, at 10:00 a.m.

BEFORE :

Ms. Latrice Kirkland-Montague, Administrative Law
Judge

1 APPEARANCES:

DOUG FELDER

2 203 North LaSalle Street

Suite 2300,

3 Chicago, 60601.

(312) 634-3509

4 for Department of Transportation;

5 MACK SHUMATE

101 North Wacker Drive

6 Suite 1920

Chicago, Illinois, 60606

7 (312) 777-2055

for Union Pacific Railroad Company.

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L.A. COURT REPORTERS, by.

9 Kari Wiedenhaupt, CSR, License No. 084-004725

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I N D E X

Re Re By

WITNESSES: Direct Cross Direct Cross Examiner

(None.)

E X H I B I T S

NUMBER MARKED FOR ID IN EVIDENCE

STAFF

(None.)

1 JUDGE KIRKLAND-MONTAQUE: By the power vested
2 in me by the State of Illinois and the Illinois
3 Commerce Commission, I now call Docket T12-0134.
4 This is In the Matter of the Department of
5 Transportation of the State of Illinois, petitioner
6 versus the Union Pacific Railroad Company, as
7 successor to the Chicago, Madison and Northern
8 Railroad Company, and this is a petition for approval
9 of the taking or damaging of certain property owned
10 by the common transportation carrier in Kane County,
11 Illinois, by exercising the right of eminent domain,
12 Parcel No. 1ST0244PE and TE Parcel No. 1ST0245PE and
13 TE Job No. R91-083-01.

14 May I have appearances starting with
15 IDOT?

16 MR. FELDER: Good morning, your Honor. For the
17 Department of Transportation, my name is Doug Felder,
18 F-E-L-D-E-R, 203 North LaSalle Street, Suite 2300,
19 Chicago, 60601. My phone number is (312) 634-3509.

20 MR. SHUMATE: Thank you, your Honor. My name
21 is Mack, M-A-C-K, Shumate, S-H-U-M-A-T-E. I am an
22 attorney for the Union Pacific Railroad Company. Our

1 offices in Chicago are at 101 North Wacker Drive,
2 Suite 1920, Chicago, Illinois, 60606. Telephone
3 number is area code, (312) 777-2055.

4 JUDGE KIRKLAND-MONTAQUE: Thank you. Mr.
5 Felder, if you could just give us a brief summary of
6 where the parties are on this matter.

7 MR. FELDER: Yes. Counsel and I have spoken
8 regarding this project and regarding this petition,
9 and the land acquisition matter, as well as the
10 general project petition that is also pending in the
11 Commerce Commission, and at this point we anticipate
12 being able to draft to circulate amongst ourselves
13 and agree upon the content of a proposed stipulated
14 order that would permit -- that would grant the
15 authority of the Commission or approval of the
16 Commission to proceed -- to allow IDOT to proceed
17 with the use of its eminent domain powers in the
18 Circuit Court of Kane County, and there to conclude
19 the acquisition of this matter, whether by agreement
20 or otherwise.

21 And we anticipate being able to do
22 that -- I would think I can have an order to Mr.

1 Shumate within a week or ten days, and we would hope
2 we would be able to conclude an agreement if, in
3 fact, we can maybe sometime within the next three or
4 four weeks. And therefore, we would be at this point
5 agreeable to an extension or a continuance of this
6 matter to coincide with the scheduling for the
7 construction of position approval, which may be
8 pending before your Honor, but is pending in front of
9 the Commission at this time.

10 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

11 Mr. Shumate, do you want to add anything?

12 MR. SHUMATE: Yes, thank you. Just to confirm
13 that this particular matter is a petition before the
14 Illinois Commerce Commission to take railroad
15 operating property for public use and the takes
16 concern both a permanent easement for the widening of
17 a road and also temporary easements for construction
18 requirements during the performance of the project.

19 The railroad does not object to the
20 two takes -- well, really it's three, and matters of
21 consideration or damages for that will be dealt with
22 separately. And the project itself will be covered

1 by a separate hearing before the Illinois Commerce
2 Commission later on this month, and we concur that we
3 would enter into a stipulated agreement with regard
4 to the authority to take the property.

5 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

6 Okay. Having said that, I think then that we will
7 set another hearing date to continue this matter to
8 Tuesday, November 27th at 1:00 p.m. here in Chicago,
9 and, you know, whatever can get done before then is
10 appreciated. So I think that's it.

11 (Whereupon, the proceeding has
12 been adjourned until November
13 27th, 2012.)

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